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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/708,253	02/19/2004	Ashok V. Joshi	041018	2252
22876	7590	04/10/2006	EXAMINER	
FACTOR & LAKE, LTD 1327 W. WASHINGTON BLVD. SUITE 5G/H CHICAGO, IL 60607				PAIK, SANG YEOP
		ART UNIT		PAPER NUMBER
		3742		

DATE MAILED: 04/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/708,253	JOSHI ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Sang Y. Paik	3742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 05 January 2006.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1 and 3-26 is/are pending in the application.
- 4a) Of the above claim(s) 5,11 and 15-17 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,3,4,6-10,12-14 and 18-26 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) Notice of Informal Patent Application (PTO-152)  
6) Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3, 4, 6, 8-10, 12, 14, 18, 19 and 22-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Ohayon (US 5,810,253).

Ohayon shows the device claimed including a housing with a discharge opening, a volatile substance cartridge having an outlet, means for orienting the device, means for controllably releasing a predetermined amount of the volatile substance and transport it through the housing to an absorbent emanator made of a cardboard which is a cellulose material, the housing having means made of a rigid material for isolating and protecting the volatile substance, and a shuttle with a chamber for discharging the volatile substance to a discharge hole (see Figure 11).

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 7 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ohayon (US 5,810,253) in view of Huang (US 6,805,306) or Marquiss (US 4,846003).

Ohayon shows the device claimed except the control release means that is electrically operated.

Huang and Marquiss show that it is well known in the art to operate a plunger electrically rather than manually. In view of Huang or Marquiss, it would have been obvious to one of ordinary skill in the art to adapt Ohayon with an electrically operated plunger as the control means to more conveniently release the volatile substance.

With respect to claim 13, Ohayon shows a seal which seals off the shuttle which further includes a spring contact with the shuttle movement. While Ohayon does not show a plurality of seals, it would have been obvious to one of ordinary skill in the art to provide a multiple number of seals along the shuttle to ensure that the volatile substance is not leaked through the shuttle within the housing member.

5. Claims 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ohayon (US 5,810,253) in view of Joshi (US 5,932,204).

Ohayon shows the device claimed except a heating element.

Joshi shows a device for controllably releasing a volatile substance, and Joshi further shows a heating element provided to a porous emanator to increase the volatilization of the substance. In view of Joshi, it would have been obvious to one of ordinary skill in the art to adapt Ohayon with a heating element to the emanator to further increase the volatilization of the volatile substance and its flow from the emanator.

#### ***Response to Arguments***

6. Applicant's arguments filed 1/5/06 have been fully considered but they are not persuasive.

The applicant argues the invention shows a volatile substance dispensed from the reservoir is transported through the housing to a discharge opening that is not aligned with the cartridge hole of the reservoir. While such structure is shown in Figures 1 and 1(a), it is noted that such structure is not claimed. The claim recitation calls for “transporting it through the housing”, but there is no recitation showing the off-aligned opening holes. With respect to claim 24, the applicant argues that Ohayon does not show the controller “driving the volatile substance to release through a discharge opening”, but the controller of Ohayon clearly shows that it is utilized or activated to drive the volatile substance to release through the discharge opening. Thus, the applicant’s arguments are not deemed persuasive over the applied prior art.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 3742

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sang Y. Paik whose telephone number is 571-272-4783. The examiner can normally be reached on M-F (9:00-4:00) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on 571-272-4777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Sang Y Paik  
Primary Examiner  
Art Unit 3742

syp